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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,675	05/21/2004	Daniel C. Conrad	US20040159	3009
20915	7590	05/24/2007		
MCGARRY BAIR PC 32 Market Ave. SW SUITE 500 GRAND RAPIDS, MI 49503			EXAMINER BLAN, NICOLE R	
			ART UNIT 1709	PAPER NUMBER
			MAIL DATE 05/24/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/709,675	CONRAD ET AL.	
	Examiner	Art Unit	
	Nicole Blan	1709	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>08232004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: In the title of the application, correct the spelling of Applicance to Appliance. Remove the double period at the end of the sentence on page 7, paragraph 33, and line 18. Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-2, 4, 19, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore (U.S. Patent 2,767,944, hereafter '944), and further in view of Pool (U.S. Patent 3,426,986, hereafter '986).

Claims 1 and 21: '944 teaches a household clothes washer [also referred to as a household appliance] [col. 1, lines 15-17] for use in a home environment having a floor [inherent trait of an appliance for use in a house] for supporting the household clothes washer [or appliance] comprising: a cabinet [(1), Fig. 1, col. 2, lines 47-48]; a wash basket [(6), Fig. 1, col. 2, lines 26-31] mounted within the cabinet for rotational motion [col. 2, lines 31-36] [the wash basket corresponds to a vibration generator located within the cabinet]; a foot [(15), Fig. 1, col. 2, lines 63-64] extending from the cabinet for supporting the cabinet on the floor; and a boot mounted to the foot [(23), Fig. 1, col. 3, lines 1-3]. It does not teach a boot having multiple operational conditions comprising an isolating condition, where the boot substantially isolates

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the floor from forces generated by the rotation of the basket and acting through the foot, and a non-isolating condition, where the boot substantially passes the forces through the foot and into the floor. However, '986 teaches a boot [(13), Fig. 1] having multiple operational conditions [col. 2, lines 39-45] comprising an isolating condition [Fig. 2, col. 2, lines 17-19], where the boot substantially isolates the floor from forces generated by the rotation of the basket and acting through the foot, and a non-isolating condition [Fig. 3, col. 2, lines 20-23], where the boot substantially passes the forces through the foot and into the floor. The selection of something based on its known suitability for its intended use has been held to support *prima facie* cases of obviousness. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the boot of '986 as the particular boot of '944 with a reasonable expectation of success because '986 teaches a suitable means to isolate the force generated by the rotation of the basket or by a vibration generator.

Claim 2: '944 and '986 teach the limitations of claim 1 above. They do not explicitly teach the household clothes washer according to claim 1, wherein a predetermined range of motion defines the operational condition of the boot. The Examiner takes Official Notice that it is common knowledge to one of ordinary skill in the art of operating conditions for a washing machine that the basket would have a predetermined range of motion that is inherent to defining the operational conditions of the boot. The selection of something based on its known suitability for its intended use has been held to support a *prima facie* case of obviousness. Therefore, it would have been obvious to one of ordinary skill in the art that the predetermined range of motion would lead to defining the operational conditions of the washing machine.

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Claim 4: '944 and '986 teach the limitations of claim 1 above. '986 also teaches the household clothes washer according to claim 1, wherein the boot is operable between a natural state [Fig. 2, col. 2, lines 17-19] and a collapsed state [Fig. 3, col. 2, lines 20-23], with the natural state corresponding to the isolating operational condition and the collapsed state corresponding to the non-isolating condition.

Claim 19: '944 and '986 teach the limitations of claim 1 above. '944 also teaches the household clothes washer according to claim 1, wherein the boot is made from a resilient material [col. 3, lines 13-14, 25-30, and 56-59].

4. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over '944 and '986 as applied to claim 1 above, and further in view of Obata et al. (U.S. Patent 5,029,458, hereafter '458).

Claim 20: '944 and '986 teach the limitations of claim 1 above. They do not teach that the basket rotates about a horizontal axis. The Examiner takes Official Notice that it is common knowledge to one of ordinary skill in the art that a horizontal axis washer can be used in place of a vertical axis washer and that a damper would be needed to isolate the forces produced from both of the machines. See, for example, '458, that teaches a horizontal washer [abstract] yielding rubber legs [(1a), Fig. 1, col. 3, lines 63-65]. It is common knowledge to one of ordinary skill in the art that rubber is used to dampen vibrations, such as those produced from the rotating basket. The selection of something based on its known suitability for its intended use has been held to support *prima facie* cases of obviousness. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a horizontal

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axis washer inter changeably with a vertical axis washer in order to dampen the vibrations from the baskets by utilizing rubber boots.

5. Claim 3 rejected under 35 U.S.C. 103(a) as being unpatentable over '944 and '986 as applied to claim 2 above, and further in view of Johnson (U.S. Patent 6,141,995, hereafter '995).

Claim 3: '944 and '986 teach the limitations of claim 2 above. They do not teach a washing machine wherein the boot is in the non-isolating condition when the magnitude of the forces acting on the washer as the basket rotates about a horizontal axis is such that the top of the cabinet moves through an arc no greater than 2 inches. However, '995 teaches that by making mounts or bases for a machine to sit on from a resilient material, such as, plastic [col. 3, lines 14-17], it will be flexible enough to move from the force acting on the machine, but it also able to restrict the motion because the material will dampen the force [col. 4, lines 13-25]. It is such that resilient material of '995 allows the boot of '986 to operate in a non-isolating and dampening condition when the magnitude of force increases; thus, minimizing movement through the cabinet. The Examiner takes Official Notice that washing machines installed in small spaces should minimize any movement to avoid damage to surrounding parts. Therefore, it would be rendered obvious to one of ordinary skill in the art that mounting an oscillating machine on a flexible mount would limit the movement of the case by dampening the forces.

6. Claims 5 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over '944 and '986, and further in view of Healy (U.S. PGPub 2005/0081405A1, hereafter '405).

Claims 5 and 14: '944 and '986 teach the limitations of claim 4 above. They do not teach the boot of a household clothes washer comprising a snubber spaced above the floor when the boot is in the natural state and compressed against the floor when the boot is in the compressed

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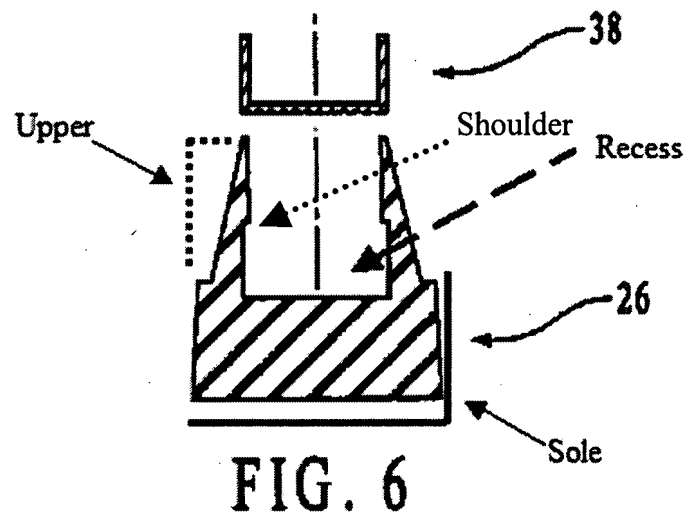
state in order to isolate the force created by the appliance. However, '405 teaches a snubber [lug, pg. 2, paragraph 28, lines 1-3] [(31), Figs. 3A and 3B, pg. 3, para. 38, lines 3-5] spaced above the floor in the natural state [Fig. 3A, pg. 2, para. 27, lines 4-7] and compressed against the floor [Fig. 3B, pg. 2, para. 27, lines 7-13 and pg. 3, para. 38, lines 5-14] so as to isolate the force created to prevent walking [slipping, pg. 3, para. 38, lines 11-14]. The selection of something based on its known suitability for its intended use has been held to support a *prima facie* case of obviousness. Therefore, it would have been obvious to one of ordinary skill in the art of isolating forces that the snubber as taught by '405 could be used as the snubber of '944 since, '405 teaches that it isolates force and prevents slipping.

7. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over '944, '986, and '405, and further in view of Bader (U.S. Patent 6,055,998, hereafter '998).

Claim 6: '944, '986, and '405 teach the limitations of claim 5 above. They do not teach a household clothes washer according to claim 5, wherein the boot comprises a sole with a bottom surface for contacting the floor, and an upper extending from the sole and defining a foot recess in which the foot is received to mount the boot to the foot. However, '998 teaches a boot [(26), Fig. 6, col. 3, lines 52-55] comprising a sole with a bottom surface for contacting the floor [see Fig. 6 below, the bottom portion of (26)], and an upper extending from the sole [see Fig. 6 below, the upper portion of (26)] and defining a foot recess [see Fig. 6 below, the inner portion of (26) is the recess] in which the foot [(38), Fig. 6] is received to mount the boot to the foot in order to isolate the forces generated by the appliance. See the picture below. The selection of something based on its known suitability for its intended use has been held to support a *prima facie* case of obviousness. Therefore, it would have been obvious to one of ordinary skill in the

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art of isolating forces that the boot as taught by '998 could be used as the boot of '986 since, '988 teaches that it is a shock absorbing fixture.



Claim 7: '944, '986, '405, and '998 teach the limitations of claim 6 above. It is not explicitly taught that the sole comprises a snubber recess that opens onto the bottom surface, with the snubber extending into the recess. However, '405 teaches the snubber extending into the recess as explained in claim 5 above while '998 teaches the boot as explained in claim 6 above in order to isolate the force through the fixture. The selection of something based on its known suitability for its intended use has been held to support a *prima facie* case of obviousness. Therefore, it would have been obvious to one of ordinary skill in the art of isolating forces that the snubber as taught by '405 could be used as the boot of '998 since, '405 teaches that it isolates force and prevents slipping.

8. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over '944, '986, '405, '998, and Johnson (U.S. Patent 3,601,345, hereafter '345).

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Claim 8: '944, '986, '405, and '998 teach the limitations of claim 7 above. They do not teach a stiffener in the sole. However, '345 teaches a stiffener [(14 and 15), Fig. 5] in the sole [(11), Fig. 5] [col. 2, lines 26-40] in order to provide the correct strength to the boot in order to dissipate the vibrations caused by the machine. The selection of something based on its known suitability for its intended use has been held to support a *prima facie* case of obviousness. Therefore, it would have been obvious to one of ordinary skill in the art of isolating force that the stiffener as taught by '345 could be used as the stiffener in '998 since, '345 teaches that it isolates force by providing the correct strength.

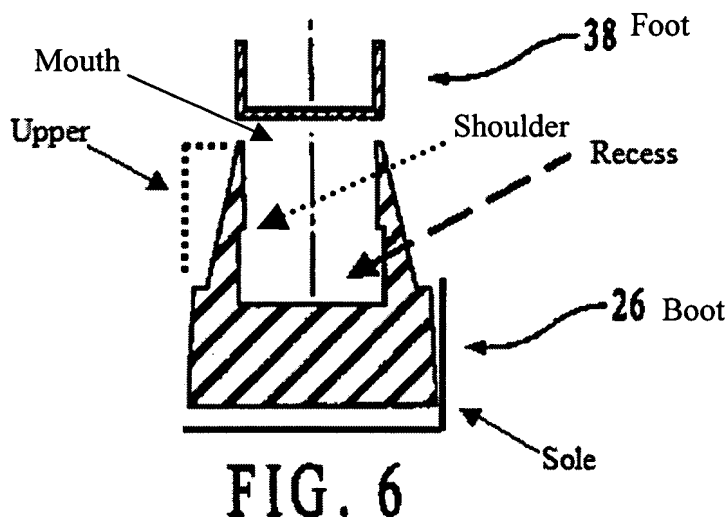
Claim 9: '944, '986, '405, '998, and '345 teach the limitations of claim 8 above. They do not teach a stiffener that circumscribes the snubber recess. However, '345 teaches a stiffener [(14 and 15), Fig. 5] that circumscribes the recess [area below the rivet (19) in Fig. 4, col. 2, lines 63-70] to act as a vibration insulator [col. 2, line 56-58]. The selection of something based on its known suitability for its intended use has been held to support a *prima facie* case of obviousness. Therefore, it would have been obvious to one of ordinary skill in the art of isolating force that the stiffener as taught by '345 circumscribing the recess could be used as the stiffener in '998 since, '345 teaches that by circumscribing the recess it isolates the vibrations.

Claim 10: '944, '986, '405, '998, and '345 teach the limitations of claim 8 above. '998 also teaches a washer according to claim 9, wherein the upper [see Fig. 6 below, the upper portion of (26)] terminates in a resilient shoulder [see Fig. 6 below] defining a mouth [see Fig. 6 below] for the foot recess [see Fig. 6 below, the inner portion of (26) is the recess], with the mouth having a portion smaller than the foot such that when the foot passes through the mouth, the resilient shoulder is initially deflected and when the foot is received in the recess, the resilient

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shoulder overlies a portion of the foot to aid in mounting the boot to the foot. See Figure below.

The selection of something based on its known suitability for its intended use has been held to support a *prima facie* case of obviousness. Therefore, it would have been obvious to one of ordinary skill in the art of isolating force that the boot as taught by '998 could be used as the boot of '986 since, '988 teaches that it is a shock absorbing fixture.



9. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over '944, '986, '405, '998, and '345 as applied to claim 10 above, and further in view of Midcap (U.S. Patent 5,713,382, hereafter '382).

Claim 11: '944, '986, '405, '998, and '345 teach the limitations of claim 10 above. They do not teach a retaining element for retaining the foot beneath the shoulder. However, '382 teaches a retaining element [(450), Fig. 4, col. 4, lines 44-54] for retaining the foot within the upper portion of the boot [(430), Fig. 4, col. 4, lines 44-46]. The selection of something based on its known suitability for its intended use has been held to support a *prima facie* case of

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obviousness. Therefore, it would have been obvious to one of ordinary skill in the art that the retaining element as taught by '382 could be used to retain the foot inside the boot of '986 since, '382 teaches that the foot is maintained in the boot.

10. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over '944, '986, '405, '998, '345, and '382 as applied to claim 11 above, and further in view of Levasseur (U.S. Patent 4,947,882, hereafter '882).

Claim 12: '944, '986, '405, '998, '345, and '382 teach the limitations of claim 11 above. They do not teach using a split element that circumscribes the mouth as the retaining element. However, '882 teaches a split retaining element [(13), Fig. 2, col. 2, lines 3-6] that circumscribes the mouth [col. 2, lines 66-68 and col. 3, lines 1-5] in order to retain the foot [(10), Fig. 2] inside the boot [(1), Fig. 2] [col. 2, lines 47-66]. The selection of something based on its known suitability for its intended use has been held to support a *prima facie* case of obviousness. Therefore, it would have been obvious to one of ordinary skill in the art that the retaining element as taught by '882 could be used to retain the foot inside the boot of '986 since, '882 teaches that the foot is maintained in the boot.

11. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over '944, '986, '405, '998, '345, '382, and '882 as applied to claim 12 above, and further in view of Greene et al. (U.S. Patent 6,131,593, hereafter '593).

Claim 13: '944, '986, '405, '998, '345, '382, and '882 teach the limitations of claim 12 above. They do not teach a washing machine comprising a bearing plate positioned within the foot recess and supporting the foot relative to the boot when the foot is received within the foot recess. However, '593 teaches a bearing plate [(60), Fig. 7, col. 4, lines 12-16] positioned with

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the foot recess [(24), Fig. 7] that supports the foot [(14), Fig. 1] relative to the boot [(12), Fig. 7] when the foot is received within the foot recess in order to prevent damage to the boot from the foot. The selection of something based on its known suitability for its intended use has been held to support a *prima facie* case of obviousness. Therefore, it would have been obvious to one of ordinary skill in the art that the bearing plate as taught by '593 could be used to support the foot inside the boot of '986 since, '593 teaches that a bearing plate is used to prevent damage to the boot from the foot.

12. Claims 15, 22, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over '944 and '986, and further in view of '998.

Claim 15 is rejected over '944 and '986 as applied to claim 1 above, and further in view of '998 for the reasons applied to claim 6 above.

Claim 22 is rejected over '944 and '986 as applied to claim 21 above, and further in view of '998 for the reasons applied to claim 6 above.

Claim 28 is rejected over '944, '986, and '998 as applied to claim 22 above, and further in view of characteristics that are inherent to the operation of the washing machine as applied to claim 2 above.

13. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over '944, '986, and '998 as applied to claim 22 above, and further in view of '405 for the reasons applied to claim 5 above.

14. Claims 16 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over '944, '986, and '998, and further in view of '345.

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Claim 16 is rejected over '944, '986, and '998 as applied to claim 15 above, and further in view of '345 for the reasons applied to claim 8 above.

Claim 24 is rejected over '944, '986, and '998 as applied to claim 22 above, and further in view of '345 for the reasons applied to claim 8 above.

15. Claims 17 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over '944, '986, and '998, and further in view of '382.

Claim 17 is rejected over '944, '986, and '998 as applied to claim 15 above, and further in view of '382 for the reasons applied to claim 11 above.

Claim 25 is rejected over '944, '986, and '998 as applied to claim 22 above, and further in view of '382 for the reasons applied to claim 11 above.

16. Claims 18 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over '944, '986, and '998, and further in view of '593.

Claim 18 is rejected over '944, '986, and '998 as applied to claim 15 above, and further in view of '593 for the reasons applied to claim 13 above.

Claim 27 is rejected over '944, '986, and '998 as applied to claim 22 above, and further in view of '593 for the reasons applied to claim 13 above.

17. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over '944, '986, '998, and '382 as applied to claim 25 above, and further in view of '882 for the reasons explained in claim 12.

18. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over '944, '986, and '998 as applied to claim 28 above, and further in view of '995 for the reasons explained in claim 3 above.

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Conclusion

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fetterman (U.S. Patent 4,881,564) and Davis (U.S. Patent 5,409,029) teaches basics of the boot. Helmond (U.S. Patent 2,602,616) teaches the recess in the boot. Bochan (U.S. Patent 3,952,557) teaches basics of a washing machine. Lee (U.S. Patent 6,009,730) teaches a damper assembly in a washer. Persons (U.S. Patent 1,746,902) teaches the recess in the boot and stiffener. Berlin et al. (U.S. Patent 5,992,434) teaches the stiffener.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicole Blan whose telephone number is 571-270-1838. The examiner can normally be reached on Monday - Thursday 7:30-5 and Friday 7:30-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Cleveland can be reached on 571-272-1418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NRB



MICHAEL B. CLEVELAND
SUPERVISORY PATENT EXAMINER